United Nations A/64/864

General Assembly

Distr.: General
14 July 2010

Original: English

Sixty-fourth session
Agenda items 48 and 114

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Follow-up to the outcome of the Millennium Summit

Early warning, assessment and the responsibility to protect

Report of the Secretary-General

I. Introduction

1. The present report is prepared in order to update Member States on certain aspects of the responsibility to protect, pursuant to General Assembly resolution 63/308, in which the Assembly confirmed its intention "to continue its consideration of the responsibility to protect" as called for in the 2005 World Summit Outcome.[1] Specifically, the report addresses matters that were raised in the annex to my report, "*Implementing the responsibility to protect*" (A/63/677), which were subsequently debated in the Assembly on 21, 23, 24 and 28 July 2009.

II. Mandate

2. The 2005 World Summit Outcome called for an expansion of the United Nations capabilities for early warning and assessment of possible genocide, war crimes, ethnic cleansing and crimes against humanity,[2] and in paragraph 138, the Heads of State and Government unambiguously pledged to "support the United Nations in establishing an early warning capability".

3. In paragraph 139 of the Outcome, the Heads of State and Government underscored that the international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter of the United Nations, to help protect populations from genocide, war crimes, ethnic cleansing

[1] Resolution 60/1, para. 139.
[2] Ibid., paras. 138-140.

10-45020 (E) 160710

Please recycle

and crimes against humanity. Chapters VI and VIII of the Charter, on the pacific settlement of disputes and on regional arrangements, respectively, offer a wide range of tools that could be employed to protect populations, by peaceful means, from the four crimes and violations listed above, as emphasized in the discussion of the three pillars of the strategy for implementing the responsibility to protect (see A/63/677). Such peaceful and preventive measures, it should be recalled, are most likely to be effective if they are undertaken at an early point and are carefully targeted and calibrated. This, in turn, requires early warning and a differentiated assessment of the circumstances of each case.

4. At the World Summit, Heads of State and Government stated: "We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out." The implementation of preventive measures "before crises and conflicts break out" and the identification of which States "are under stress" necessarily entail timely early warning and impartial assessment by the United Nations.

5. In the same paragraph, the world leaders declared that: "we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity". Decisions about collective action, as well as judgments about whether peaceful means are inadequate and whether "national authorities are manifestly failing to protect," should ultimately be made by the Security Council or, less frequently, by the General Assembly. Such decisions, however, are normally informed, at least in part, by information and assessments provided by the Secretariat, especially if they are to be taken "in a timely and decisive manner," as called for in the World Summit Outcome. In such cases, the quality and timeliness of the inputs from the Secretariat are vital, especially to those Member States that do not have extensive national sources of information and analysis.

6. In paragraph 140 of the World Summit Outcome, the Heads of State and Government declared that they fully supported the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide. The responsibilities of the Special Adviser, which depend heavily on early warning and assessment capacities, are as follows:

(a) To collect existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin which, if not prevented or halted, might lead to genocide;

(b) To act as a mechanism of early warning to the Secretary-General, and through him to the Security Council, by bringing to their attention situations that could potentially result in genocide;

(c) To make recommendations to the Security Council, through the Secretary-General, on actions to prevent or halt genocide;

(d) To liaise with the United Nations system on activities for the prevention of genocide and to work to enhance the capacity of the United Nations to analyse and manage information regarding genocide or related crimes.

III. Gaps and capacities

7. Hard lessons from the 1990s led to the emphasis on information management and analysis, as well as on early warning, within the mandate of the Special Adviser on the Prevention of Genocide. The United Nations assessment reports on its performance in relation to the Rwandan genocide (see S/1999/1257) and the fall of Srebrenica (A/54/549) were candid in this regard. In the case of Rwanda, the Independent Inquiry noted that "there was not sufficient focus or institutional resources for early warning and risk analysis" at headquarters and that there was "an institutional weakness in the analytical capacity of the United Nations". To strengthen the United Nations early warning capacity, the report called for improvements in "its capacity to analyse and react to information" and in the flow of information within the United Nations system and to the Security Council, including on human rights issues (see S/1999/1257). The Secretary-General's report on Srebrenica recognized that early warning does not automatically result in early or effective action, but that with fuller and more timely reporting "the international community might have been compelled to respond more robustly and more quickly, and that some lives might have been saved". The lack of sufficient information sharing, the report noted, was "an endemic weakness throughout the conflict" (A/54/549, para. 474). It also commented that "the reluctance of Member States to share sensitive information with an organization as open, and from their perspective, as 'insecure' as the United Nations, is one of the major operational constraints under which we labour in all our missions" (ibid., para. 486).

8. Over the past decade, there have been several efforts within the United Nations system to address some of these gaps, at least in specific issue areas. Indeed, information, assessment, and early warning have become common functions and widely accepted tools in global (and regional) efforts to facilitate preventive action and multilateral cooperation. As discussed below, genocide prevention, through the Office of the Special Adviser, has featured prominently among these diverse initiatives. The Department of Political Affairs, with its mission of conflict prevention and peacemaking, its country and regional desks, its management of special political missions, its mediation support and electoral assistance capacity and its regional presence plays a critical role in monitoring and assessing global political developments and advising on actions that could advance the cause of peace. In collaboration with relevant regional offices, the Early Warning and Contingency Planning Section of the Office for the Coordination of Humanitarian Affairs employs both quantitative and qualitative indicators to assess the risks of humanitarian emergencies in different parts of the world. Working with about a dozen United Nations agencies, funds and programmes, the Sub-Working Group on Preparedness of the Inter-Agency Standing Committee provides quarterly reports on emerging and deteriorating situations of humanitarian concern.

9. The United Nations Interagency Framework for Coordination on Preventive Action, better known as the "Framework team", provides an informal forum at which 21 United Nations agencies, departments, funds and programmes can share information and analysis on selected situations that display early signs of growing

tension. It is currently based in the Bureau of Crisis Prevention and Recovery of the United Nations Development Programme, whose Conflict Prevention Unit works with the Department of Political Affairs to formulate conflict prevention strategies and implement programmes with United Nations country teams in the field. Both the Department of Peacekeeping Operations and the United Nations Children's Fund (UNICEF) maintain round-the-clock situation centres in New York to receive information from their extensive field operations. The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Office of the United Nations High Commissioner for Refugees (UNHCR) continuously monitor and assess developments related to their mandates, both of which have important implications for implementing the responsibility to protect. The work of the special rapporteurs established by the United Nations Human Rights Council and of the human rights treaty bodies can also be of assistance in particular cases.

10. Each of these mechanisms facilitates the flow of information and analysis from the field to Headquarters, providing insights that can be of immense value in the effort to prevent genocide, war crimes, ethnic cleansing and crimes against humanity. The United Nations system, in short, does not lack relevant information. Nor is the gathering and assessment of information for the purpose of early warning a novel undertaking for the Organization. Substantial progress has been made over the past decade in enhancing United Nations early warning capacities. However three gaps to providing the timely information and assessment needed to implement the responsibility to protect in a balanced, responsible, and vigorous manner remain:

(a) First, there is insufficient sharing of information and analysis among the existing streams of information noted above. We need to do more to ensure that the United Nations acts as one in the flow and assessment of information, as well as in the operational work those assessments help to shape. Preventing the four specified crimes and violations requires full utilization of the information gathered and the insights gained by existing United Nations entities, not the relabelling or duplication of their work;

(b) Second, other than the early warning mechanism on the prevention of genocide, the existing mechanisms for gathering and analysing information for the purpose of early warning do not view that information through the lens of the responsibility to protect. Preventing the incitement or commission of one of the four proscribed crimes or violations is not necessarily the equivalent of preventing the outbreak of armed conflict. Sometimes such egregious acts are associated with armed conflicts, but sometimes they are not. The four specified crimes and violations entail the gross, widespread, systematic, violent and, most often, rapidly escalating abuse of human rights. Situations where there is a chronic abuse of human rights may not necessarily, however, be prone to a sudden escalation to genocide, war crimes, ethnic cleansing or crimes against humanity on a massive scale. Information and insights generated by other United Nations mechanisms, or by Member States, regional or subregional arrangements, independent experts or civil society groups, may be helpful for understanding particular situations, but they still need to be seen, understood and assessed through the provisions and intent of paragraphs 138, 139 and 140 of the 2005 World Summit Outcome;

(c) Third, the prevention and protection tasks mandated in paragraphs 138 and 139 of the 2005 World Summit Outcome put a premium on careful, accurate and impartial assessments of conditions on the ground and of policy choices at each

stage of a crisis involving the threat or commission of the four specified crimes or violations. We need assessment tools and capacity to ensure both efficiency and system-wide coherence in policymaking and the development of an early and flexible response tailored to the evolving needs of each situation. In paragraph 139 of the World Summit Outcome underscored both that the United Nations response should consider utilizing a range of policy tools available under Chapters VI, VII and VIII of the Charter, as appropriate, and that the mix should be reviewed and adjusted as events evolve on the ground. This suggests that the United Nations decision-making process should be broad-based, inclusive and flexible at both the Secretariat and intergovernmental levels. These standards demand a continuous and candid process of assessment and reassessment that utilizes the full range of information on, and analysis of, a given situation available to the United Nations system.

11. As the United Nations capacities for early warning and assessment have grown, so too have those of its regional and subregional partners. The Charter, in Articles 33 (1) and 52 (2), envisioned a world in which preventive diplomacy would begin with local and regional initiatives, to be complemented or supplemented by global efforts by the United Nations, as needed. Today, that vision of regional-global partnership is being realized in crisis after crisis, as information and assessments are shared by the United Nations and its regional and subregional partners in a common effort to prevent both conflicts and the incitement or commission of genocide, war crimes, ethnic cleansing or crimes against humanity. As noted in the annex to my report (A/63/677), United Nations decision-making concerning the responsibility to protect should be informed and enriched, whenever possible, by local knowledge and perspectives, as well as by the input of regional and subregional organizations. This puts a premium on regularizing and facilitating the two-way flow of information, ideas and insights between the United Nations and its regional and subregional partners on matters relating to the responsibility to protect, especially when they concern early warning, assessment and timely and decisive response.

12. Information received through independent sources can be useful supplements to the information received through official sources. When seeking to understand and assess rapidly evolving situations, it is useful to be able to compare information and analysis from multiple sources. Accounts become more credible as they are corroborated by others. These sources could include indigenous and transnational civil society groups, country and regional experts and human rights and humanitarian monitoring groups. Such groups may be among the first to detect an upsurge in the persecution or demonization of minorities, in patterns of sexual and gender-based violence, in the recruitment of child soldiers, in forced internal displacement or in the employment of hateful and dangerous speech to spur violence against targeted groups within a society. Governments, particularly neighbouring Governments, may have critical and timely information. However, as pointed out in the reports on Rwanda and Srebrenica cited above (S/1999/1257 and A/54/549), too often Governments have been unwilling to share such information or assessments with the United Nations in a timely manner. Presumably this reluctance will fade as Governments come to understand that the responsibility to protect is both an individual and collective one.

13. As outlined in paragraph 6 above, the mandate of my Special Adviser on the Prevention of Genocide includes collecting relevant information and acting "as a mechanism of early warning to the Secretary-General, and through him to the

Security Council, by bringing to their attention situations that could potentially result in genocide". Established in 2004, the Office of the Special Adviser on the Prevention of Genocide acts as the focal point in the United Nations system for information, whether confidential or public, about such situations. The Office, following broad consultations inside and outside the United Nations system, developed an analysis framework that describes the kind of information that it takes into account in assessing the risk of genocide in a given situation.[3] Based on the analysis framework, and working in close consultation with other entities of the United Nations system, the Office maintains working files on situations of concern and a database of information on possible precursors to genocide. It is working on ways to define and track dangerous speech that could incite genocide and to draw up recommendations to prevent or limit its effect. Based on the work of the Office and on consultations with colleagues in the United Nations system, the Special Adviser provides timely advice to the Secretary-General and, as appropriate, to the Security Council, on situations of concern, through advisory notes and briefings. He also makes recommendations to the Secretary-General on actions to prevent or halt genocide, seeks to mobilize the United Nations system and other key partners to take into account the urgency of a situation and conducts advocacy missions to countries where his involvement is considered to be of particular value. In addition to these situation-specific functions, the Office and the Special Adviser conduct a range of training, education, conceptual, advocacy and public outreach activities. These contribute to prevention by raising public and official awareness of the signs of potential genocide and by spreading knowledge of possible steps to prevent it.

IV. Next steps

14. The year 2009 marked a watershed for the concept of the responsibility to protect, with the publication of the report of the Secretary-General on "*Implementing the responsibility to protect*" in January, the constructive debate in the General Assembly in late July and the Assembly's adoption, by consensus, of its first resolution on the subject in September (General Assembly resolution 63/308). Further development of the concept is needed, as my report posed as many questions as it answered. Various cross-regional and cross-sectoral lessons learned exercises, led by Member States, regional organizations and transnational civil society, as well as by the United Nations, are just getting underway. The political dialogue on how best to implement the responsibility to protect is off to a good start, although a number of critical implementation issues will require a continuing conversation among the Member States, the United Nations system and civil society organizations. This was recognized in paragraph 139 of the 2005 World Summit Outcome and in General Assembly resolution 63/308, both of which referred to the General Assembly's continuing consideration role vis-à-vis the further development and operationalization of the responsibility to protect. The informal interactive dialogue on the early warning and assessment dimensions of the responsibility to protect at the sixty-fourth session, like the similar but broader dialogue during the sixty-third session, will contribute significantly to this continuing consideration. It would be useful, in my view, if a similar informal interactive dialogue on the role of

[3] For the analysis framework see the website of the Office of the Special Adviser on the Prevention of Genocide at: www.un.org/preventgenocide/adviser/pdf/OSAPG%20AnalysisFrameworkExternalVersion.pdf.

regional and subregional organizations in implementing the responsibility to protect could be held by the Assembly next year.

15. My Special Adviser on the Prevention of Genocide, Francis M. Deng, and my Special Adviser responsible for the conceptual, political and institutional development of the responsibility to protect, Edward C. Luck, have distinct but closely related responsibilities. Both sets of tasks need to be pursued with vigour.

16. I believe that it is essential both to maintain the distinct elements of these two sets of responsibilities and to ensure the close working relationship of the two Special Advisers on the common elements of their operational activities, for example, by employing common methodologies whenever possible. To date, their efforts have embodied the spirit and practice of system-wide coherence. This spirit of collaboration was anticipated by the decision of the Heads of State and Government, in adopting the 2005 World Summit Outcome, to include their support for the mission of the Special Adviser on the Prevention of Genocide in the section on the responsibility to protect.[4]

17. In order to save resources, eliminate redundancy and maximize synergies and effectiveness, we should consider ways to institutionalize the collaboration between the two Special Advisers, including options for a joint office. As noted in the annex to my report to the General Assembly, a joint office could "preserve and enhance existing arrangements, including for capacity-building and for the gathering and analysis of information from the field, while adding value on its own in terms of new arrangements for advocacy, cross-sectoral assessment, common policy, and cumulative learning on how to anticipate, prevent and respond to crises relating to the responsibility to protect" (A/63/677, annex, para. 7). Proposals in this regard will be submitted to the Assembly later in 2010. They will take into account the wider range of crimes and violations covered by the responsibility to protect, the broad interest in the responsibility to protect among Governments, parliaments and civil society and the Assembly's continuing consideration of the concept.

18. When the Special Advisers, based largely on information provided by, and in consultation with, other United Nations entities, conclude that a situation could result in genocide, war crimes, ethnic cleansing or crimes against humanity, they provide early warning to me and, through me, to the Security Council and other relevant intergovernmental organs. If the situation persists, and if national authorities are manifestly failing to protect their populations from these crimes, I will invoke new internal procedures to expedite and regularize the process by which the United Nations considers its response and its recommendations to the appropriate intergovernmental body or bodies. In such cases, I will ask the Special Advisers to convene an urgent meeting of key Under-Secretaries-General to identify a range of multilateral policy options, whether by the United Nations or by Chapter VIII regional arrangements, for preventing such mass crimes and for protecting populations. Such an emergency meeting will be prepared through a working level process convened by the Special Advisers, and the results, including the pros and cons of each option, will be reported promptly to me or, should I choose, to the Policy Committee. This is without prejudice to the role of the relevant United Nations entities, acting within their mandates, to bring any situation to my

[4] Resolution 60/1, para. 140.

attention and, through me, to the Security Council and other relevant intergovernmental organs.

19. It is often said, with some justification, that early warning does not always produce early action. But it is also true that early action is highly unlikely without early warning. It is critical, moreover, that early action also be well-informed action. The United Nations needs world class early warning and assessment capacities, as called for by the 2005 World Summit Outcome, in order to ensure that it is not left with a choice between doing nothing or taking ill-informed action. My strategy for implementing the responsibility to protect calls for early and flexible response tailored to the circumstances of each case. Getting the right assessment — both of the situation on the ground and of the policy options available to the United Nations and its regional and subregional partners — is essential for the effective, credible and sustainable implementation of the responsibility to protect and for fulfilling the commitments made by the Heads of State and Government at the 2005 World Summit. To that end, the present report offers some further thoughts on the road ahead.